

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Daniel Lee

Write the full name of each plaintiff.

23 CV 4069

(Include case number if one has been assigned)

-against-

Bronx Care Hosipal

Do you want a jury trial?

☐ Yes ☐ No

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

EMPLOYMENT DISCRIMINATION COMPLAINT

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. PARTIES**A. Plaintiff Information**

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

<u>Daniel</u>	<u></u>	<u>Lee</u>
First Name	Middle Initial	Last Name
<u>3554 DeKalb Ave Apt 5G</u>		
Street Address		
<u>Bronx</u>	<u>NY</u>	<u>10467</u>
County, City	State	Zip Code
<u>929-418-7080</u>	<u>daniellee83062@gmail.com</u>	
Telephone Number	Email Address (if available)	

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1:	<u>Bronx Care Hospital</u>		
	Name		
	<u>1265 Fulton Ave</u>		
	Address where defendant may be served		
	<u>Bronx</u>	<u>NY</u>	<u>10456</u>
	County, City	State	Zip Code
Defendant 2:	<u>1199</u>		
	Name		
	<u>NY NY</u>		
	Address where defendant may be served		
	<u></u>	<u></u>	<u></u>
	County, City	State	Zip Code

Defendant 3:

Name

Address where defendant may be served

County, City

State

Zip Code

II. PLACE OF EMPLOYMENT

The address at which I was employed or sought employment by the defendant(s) is:

Bronx Care Hospital

Name

1265 Fulton Ave

Address

Bronx

NY

10456

County, City

State

Zip Code

III. CAUSE OF ACTION**A. Federal Claims**

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

- ☐ **Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin**

The defendant discriminated against me because of my (check only those that apply and explain):

☒ race:

Black American

☐ color:☐ religion:☒ sex:

male

☐ national origin:

- ☐ **42 U.S.C. § 1981**, for intentional employment discrimination on the basis of race

My race is: Black American

- ☒ **Age Discrimination in Employment Act of 1967**, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: 1962

- ☐ **Rehabilitation Act of 1973**, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: _____

- ☐ **Americans with Disabilities Act of 1990**, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: _____

- ☒ **Family and Medical Leave Act of 1993**, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

B. Other Claims

In addition to my federal claims listed above, I assert claims under:

- ☒ **New York State Human Rights Law**, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status
- ☒ **New York City Human Rights Law**, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status
- ☐ Other (may include other relevant federal, state, city, or county law):

IV. STATEMENT OF CLAIM

A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- ☐ did not hire me
- ☒ terminated my employment
- ☒ did not promote me
- ☒ did not accommodate my disability
- ☐ provided me with terms and conditions of employment different from those of similar employees
- ☒ retaliated against me
- ☒ harassed me or created a hostile work environment
- ☐ other (specify): _____

B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

Wrongful termination, Discrimination
against my age, Retaliation against
me after filing Discrimination. 15 years
never got written up for anything. 1199
didn't do there job. I'm the only one
got terminated out of 3 people. It wasn't
even my protest.

As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

V. ADMINISTRATIVE PROCEDURES

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

☒ Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? 11/2021

☐ No

Have you received a Notice of Right to Sue from the EEOC?

☒ Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? _____

When did you receive the Notice? 4/17/2023

☐ No

VI. RELIEF

The relief I want the court to order is (check only those that apply):

☐ direct the defendant to hire me

☒ direct the defendant to re-employ me

☐ direct the defendant to promote me

☐ direct the defendant to reasonably accommodate my religion

☐ direct the defendant to reasonably accommodate my disability

☒ direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here):


I'm Fraudulent, I didn't do anything
in this matter, I believe I'm entitled
to money and damages, They destroyed my
life when I'm getting ready to retired.

VII. PLAINTIFF'S CERTIFICATION

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>5/16/2023</u>		<u></u>	
Dated		Plaintiff's Signature	
<u>Daniel</u>		<u>Lee</u>	
First Name	Middle Initial	Last Name	
<u>3554</u>	<u>DeKalb</u>	<u>ACE</u>	<u>APT 5G</u>
Street Address			
<u>Bronx</u>	<u>NY</u>	<u>10467</u>	
County, City	State	Zip Code	
<u>929-418-7080</u>	<u>daniellee83062@gmail.com</u>		
Telephone Number	Email Address (if available)		

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☒ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Miami District Office
100 SE 2nd St, Suite 1500
Miami, FL 33131
(800) 669-4000
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 04/17/2023

To: Daniel Lee
3554 DEKALB AVE, Apt 5G
WILLIAMSBRIDGE, NY 10467
Charge No: 520-2022-01887

EEOC Representative and email: JEANETTE WOOTEN
Investigator
jeanette.wooten@eeoc.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission,

Digitally Signed By: Evangeline Hawthorne
04/17/2023

Evangeline Hawthorne
Director

520-2022-01887
11/20/20

To whom it may concern;

The nursing department is very concerned about their overtime pay. We are working very hard to provide for our families and we expect to get paid for the work we put in. Our overtime pay is either delayed or lost and this has been going on for too long. From the Nurses to the PCT's. The nursing department is very upset and offended by the neglect from payroll department concerning our livelihood. Also to make matters worse our delayed pay can be affected by other factors, such as; taxes and penalties from unpaid bills.

We need to rectify this immediately. We have observed other departments getting paid on time for their overtime. Which means this problem is capable of being solved without reoccurrence.

"Immediate Attention Required"

Yours Truly Nursing Staff.

SIGNATURE

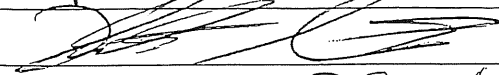
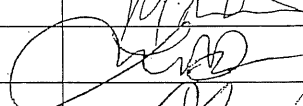
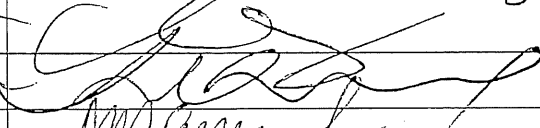
Overtime pay

[illegible]

NAME

SIGNATURE

Overtime Pay

Kemp, Jonathan	
BLOSSY PABLO	Blossy Pablo
Patricia Cruz	Patricia Cruz
Miriam Lopez	Miriam Lopez
Diana Roman	Diana Roman
Wla Yn RA	Wla Yn RA
Henrietta R. Ponce, RN	Henrietta R. Ponce
Adeleite Yemi	Adeleite Yemi
Mary Agosin	Mary Agosin
Martine	Martine
JEANNA DEED, RN	
LISA Vera RN	Lisa Vera
Justyne Cojo RN	Justyne Cojo
Melissa Martinez, RN	Melissa Martinez
Rossy De la Cruz RN	Rossy De la Cruz
Henry Kwapong G	
MAKENSON JATIS	MAKENSON JATIS
Anna Ariles, RN	Anna Ariles
Eunice San	Eunice San
OSITA Nwachuecho	OSITA Nwachuecho
P. Cable Barnes	P. Cable Barnes
Sandra Garcia	Sandra Garcia
Kassel. Fleurentin	Kassel. Fleurentin
Angelina Paul	Angelina Paul
Jose Rudino	Jose Rudino
Kevin Alosta	Kevin Alosta
Victor, Torre,	Victor, Torre,

NAME

SIGNATURE

Overtime Pay

Daniel Lee	Daniel Lee
Mariam Abdel	Mariam
VICTOR UGWU	Victor Ugwu
Valerie Stembridge	Valerie Stembridge
Egon Mercer	Egon Mercer
Michaela Lee	Michaela Lee
Dorothy Mayle	Dorothy Mayle
Vida A. Adheampoma	Vida A. Adheampoma
Afolabi Adigbale	Afolabi
Ramon Dejen-Curra	Ramon
James A. Jr.	James A. Jr.
Theresa Roberts	Theresa Roberts
Luz Acosta	Luz Acosta
Kerry Barris	Kerry Barris
Ruth Hill	Ruth Hill
Richard Edah	Richard Edah
Salome Mitchell	Sal. Mitchell
Vanetta Riley	Vanetta Riley
Ethel Quanya	Ethel Quanya
Michaela Smith	Michaela Smith
Osamir Immanuel	Osamir Immanuel
Stephen Bmo	Stephen Bmo
BRIAN MEJIA	Brian Mejia
Charles Carrier	Charles Carrier
Jose Perez	Jose Perez
Fadmatu Smith	Fadmatu Smith
Agnes Detchuk	Agnes Detchuk
Anna Oloro	Anna Oloro
Jessica Veras	Jessica Veras
Kesha Stephenson	Kesha Stephenson

Over Time Pay

[illegible]

528-228 01887



MIGUEL A. FUENTES, JR.
PRESIDENT & CHIEF EXECUTIVE OFFICER

November 15, 2021

Mr. Daniel Lee
3554 Dekalb Ave. #5G
Bronx, NY 10467

Dear Mr. Lee:

Let me personally acknowledge your 15 years of dedicated service to our BronxCare Health System. Thanks to your efforts and those of our other employees, BronxCare is leading the way in Caring for the Bronx.

During the next two weeks we will be recognizing employees, including yourself, with 5 to 55 years of service. Please speak with your Department Head or Chief of Service regarding the schedule and details for receiving this recognition. If you have any further questions, contact the Training and Volunteer Department at 718-901-8049.

Congratulations on reaching this important milestone in your career.

Sincerely,

A handwritten signature in black ink, appearing to read "Miguel A. Fuentes, Jr.", written over the printed name.

Miguel A. Fuentes, Jr.

520-2022-01887

me about 10 seconds, and I returned to my 1:1.

While we were in the dining area, patient approached me and my 1:1 at one table drawing and listening to music. Troubled patient came over to our table, therefore I played UNO with him while my 1:1 patient continued to draw and color. Once the UNO game was over the patient became aggressive requesting, I purchase outside food, I declined and he snatched my cell phone, he ran around the other tables, and he finally gave me my phone back. It was then he stood behind me and started smacking me in my head. I waved my hand to the camera; do you see how many times he hit me in my head? The children responded yes, however although present no personnel responded or intervened. I sat back down, he continued to hit me in my head, then I stood up and waved my hand again and asked Miss. Brandford, Miss. Affori to call security for the patient needs a time out and medication.

When the security came into the room, I explained this patient is agitated, aggressive, therefore he needs a timeout and medication, however the patient declined and got further agitated.

When requesting assistance from security, my responsibility is to assist security by restraining the patient. I attempted to restrain the patient, based upon the training I was provided for adults, however I was not able to get close enough because the patient began punching me in my stomach. Nurse Bailey informed me that he had it from there. Nurse Bailey and the Security Guard restrained the patient, therefore I sat back down with my 1:1.

While continuing to work with my 1:1, Nurse Bailey informed me the patient claimed I choked him and informed me that I had to leave the premises until further investigation.

I believe these allegations to be fabricated and neglected a proper investigation from all involved parties. Therefore, I am asking the Department of EOC to complete a thorough investigation based upon the below:

1. Defamation of character:

- o The allegations documented in the Record of Conference are not accurate, the incidents did not take place.

2. Whistle Blower Act:

- o Conducted and lead several petitions on behalf of myself and colleagues
Withholding approved overtime pay to employees

- o Discriminatory hiring practices (March 2021)

When my direct manager onboarded, he terminated colleagues and hired new people. I was the only seasoned employee left.

Mr. Salami my direct manager, held a meeting with the entire staff stating "the person leading the petitions and accused person of stating that he's getting paid for the hiring his own team of people"

- o Not following the proper protocol for overtime schedule

Only provided overtime to the team he hired

3. Age Discrimination:

- o I am eligible to retire in two years

- o Mr. Salami, my direct manager, I am the only seasoned employee for the others have been terminated. Mr. Salami has hired his team and has been reluctant to work with me. I noticed and took the initiative to obtain additional training so that I could be valuable to the company and colleagues. I obtained my counselling, phlebotomy, EKG, medical assistant license.

- o The Bronx Care Health System, and the Union 1099 neglected to provide me with exit interview.

4. Wrongful termination:

- o Investigation did not include all parties involved

- o The accused allegations were improperly investigated, did not name the other colleagues' who were supposed to assist when dealing with an irate patient

My union delegate informed me to come in for a meeting, where I was terminated and asked to leave the premises. Soon after, I contacted HR for a letter of termination, and HR informed me there was no record of termination on file. Therefore, I had to wait until HR reached out to a few others. To date, I have yet to receive an exit interview, Notice of Creditable Coverage, an Extension of Benefits, retirement options, investment account or any information on what I'm entitled upon turning 65.

520-2022-01887



RECORD OF CONFERENCE

Name: LEE, Daniel

Department: PCS

Position: PCT

Division: Fulton

Date of Incident: 8/22/2021 **Time of Incident:** About 11.50 am

Action to be taken: ☐ Verbal/Counseling ☐ Written Warning ☐ Final Written ☐ Suspension ☐ Dismissal
☒ Susp. Pending investigation

Last Disciplinary Action Taken: ☐ Verbal/Counseling ☐ Written Warning ☐ Final Written ☐ Suspension ☐ Dismissal
☐ _____ Days

CHARGE:

☒ X Misconduct (Alleged)

☐ Incompetence

SPECIFICATION

FACTS:

Description of unsatisfactory performance/misconduct: Explain as specifically as possible. Be sure to include date, time, place, persons involved, and any other pertinent information. Attach copies of any related documents. **(PRINT CLEARLY OR TYPE)**

Facts of the Incident: On 8/22/21, a child made an allegation of physical abuse which is being investigated. You were immediately directed to leave the unit by the PCM on the day of incident (8/22/21) and I am formally informing you that you are suspended pending the investigation with immediate effect. Sorry for the inconveniences.



ATTENDANCE RECORD

TITLE:

By my signature below, I acknowledge attending the above-titled in-service, staff education activity

	Name	Title	Unit	Signature	Date
1.	Wilma Mitchell	Deputy		Wilma Mitchell	11/12/23
2.	Daniel Lee	PT		Daniel Lee	
3.	Laudye Abraham	PCM		Laudye Abraham	11/12/23
4.	Gafar Salami	PCM		Gafar Salami	11/12/23
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
9.					
1.					

Services Law § 493(4)(c).

The investigation revealed the subject shoved the service recipient. This allegation was substantiated as Category 3 Physical Abuse on November 3, 2021.

Allegation 2 will now be UNSUBSTANTIATED. The report of this unsubstantiated finding will now be sealed pursuant to Social Services Law §§ 493(3)(d) and 496(1).

Regarding Allegation 3

It was alleged that on or about August 22, 2021, while away from BronxCare Health System, located at 1276 Fulton Avenue, Department of Psychiatry, Bronx, New York, you committed Neglect against/to a Service Recipient.

This allegation has been SUBSTANTIATED as Category 3 Neglect pursuant to Social Services Law § 493(4)(c).

The investigation revealed the subject failed to provide supervision to and/or failed to properly de-escalate the service recipient.

This allegation was substantiated as Category 3 Neglect on November 3, 2021.

Allegation 3 will remain as stated in the original report of investigation determination.

Substantiated Category 3 findings will be sealed after five years from the date of the Report of Investigation Determination.

Administrative Litigation Unit
NYS Justice Center for the Protection of People with Special Needs



**Justice Center for the
Protection of People
with Special Needs**

KATHY HOCHUL
Governor

DENISE M. MIRANDA
Executive Director

**Modified Administrative Appeals Unit Notice of Administrative Review Determination -
Substantiated**

May 26, 2022

Daniel Lee
3554 Dekalb Ave Apt 5g
Bronx, NY 10467-1208

Re: Matter of Daniel Lee
VPCR Master Case Number 5510125911
VPCR Adjudication Case Number 5210128892

Dear Daniel Lee:

The letter serves as an update regarding your case at the New York State Justice Center for the Protection of People with Special Needs (Justice Center). By a letter dated November 3, 2021, you were informed that all allegations were substantiated. You then submitted a request for amendment (appeal). That process begins with a review of the case, which has now been completed.

Upon that further review and pursuant to an agreement placed on the record, the Report of Investigation Determination dated November 3, 2021, has been modified as indicated below.

Regarding Allegation 1

It was alleged that on or about August 22, 2021, while away from BronxCare Health System, located at 1276 Fulton Avenue, Department of Psychiatry, Bronx, New York, you committed Deliberate Inappropriate Restraint against/to a Service Recipient.

This allegation has been SUBSTANTIATED as Category 3 Deliberate Inappropriate Restraint pursuant to Social Services Law § 493(4)(c).

The investigation revealed the subject restrained the service recipient with excessive force and/or improper technique.

This allegation was substantiated as Category 3 Deliberate Inappropriate Restraint on November 3, 2021.

Allegation 1 will now be UNSUBSTANTIATED. The report of this unsubstantiated finding will now be sealed pursuant to Social Services Law §§ 493(3)(d) and 496(1).

Regarding Allegation 2

It was alleged that on or about August 22, 2021, while away from BronxCare Health System, located at 1276 Fulton Avenue, Department of Psychiatry, Bronx, New York, you committed Physical Abuse against/to a Service Recipient.

This allegation has been SUBSTANTIATED as Category 3 Physical Abuse pursuant to Social

05/16/23 01:887

March 15, 2021

ATTN: Dr. Salami's discriminatory practices related to hiring of a specific race/gender from a Nursing Agency.

This petition is being generated to address the unfair and discriminative hiring practices within Bronx Care Hospital-1199 union/Fulton Division. 1199 Union started this petition on March 15, 2021 to see how many member agreed with this matter. It has been witnessed that Dr. Salami has been hiring only one race/gender for numerous years. This matter needs to be addressed immediately as per members.

Chris Diaz

Noel Davis

Michael Brambilla

Benjamin Podillo

Rich DeLa

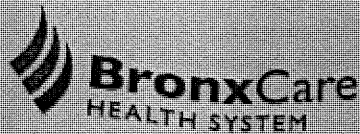
Wesley

520-2022-01887

March 15, 2021

ATTN: Dr. Salami's discriminatory practices related to hiring of a specific race/gender from a Nursing Agency.

This petition is being generated to address the unfair and discriminative hiring practices within Bronx Care Hospital-1199 union/Fulton Division. 1199 Union started this petition on March 15, 2021 to see how many member agreed with this matter . It has been witnessed that Dr. Salami has been hiring only one race/gender for numerous years. This matter needs to be addressed immediately as per members.



RECORD OF CONFERENCE

Name: LEE, Daniel

Department: PCS

Position: PCT

Division: Fulton

Date of Incident: 8/22/2021 Time of Incident: About 11.50 am

Action to be taken: ☐ Verbal/Counseling ☐ Written Warning ☐ Final Written ☐ Suspension _____ Days ☒ Dismissal

Last Disciplinary Action Taken: ☐ Verbal/Counseling ☒ Written Warning ☐ Final Written ☐ Suspension _____ Days ☐ Dismissal

CHARGE:

☒ Misconduct

☐ Incompetence

SPECIFICATION

FACTS:

Description of unsatisfactory performance/misconduct: Explain as specifically as possible. Be sure to include date, time, place, persons involved, and any other pertinent information. Attach copies of any related documents. **(PRINT CLEARLY OR TYPE)**

Facts of the Incident: On 8/22/21, at around 11.50 am in the child and adolescent unit, a child made an allegation of physical abuse which was investigated.

During the course of investigation, it was clearly established that:

1. Mr. Lee failed to provide services necessary to avoid physical harm and mental anguish to a minor. Mr. Lee chased the minor to the point that both of them were on the floor as witnessed. The patient was even treated for the pain he felt on his elbow with medication and patient repeatedly claimed that Mr. Lee held him on his neck. Mr. Lee stated to the investigator from Risk Management that he only made light contact with the patient's stomach and denied grabbing patient on his neck. Video recording, however, showed that Mr. Lee grabbed the patient around his neck/shoulder. Mr. Lee's behavior was intimidating and reckless to a vulnerable patient. This is a gross negligence on his part and contravened Policy: PCS-Admin-A-007.

2. Mr. Lee's assignment from 11:30am to 12:30 pm is to monitor another patient on 1:1 visual constant observation. Patients on 1 to 1 visual constant observation are kept within continuous visual range within 15 feet at all times. Video recording showed from the time Mr. Lee entered the dining room at 11:40:07 he engaged in different activities and was not watching the patient on 1:1 visual constant observation. Video recording showed Mr. Lee had the time to play cards with another staff during which he supposed to keep eyes on patient on 1 to 1. At a point, Mr. Lee was seen entering the pantry and left the patient on 1:1 unattended. Mr. Lee's initial and signature were reflected on the constant observation checklist attesting he performed 1:1 observation but the video recording revealed he did not execute such duty. By this, it is considered a breach in the policy HR 355C, category A, item B, E identifying the act of falsification of documentation.
3. Mr. Lee's duty was to maintain a continuous unobstructed visual observation of the patient who was on 1:1 at all times. Instead Mr. Lee engaged with another patient (T.J.) who was displaying an unacceptable behavior. There was no escalation of the patient's behavior to the RNs until the commotion was responded to by the security officer on the unit and the RN from the adolescent side.
4. A notice to provider of Investigation Determination was received from Justice Center on 11/11/2021 on the report of Abuse and Neglect on T.J. (Service Recipient)
VPCR Case Serial Number: 5510125911
Incident Number: 101-22474034125
Incident Reported Date: August 22, 2021
External reference number: 6675337
 - Allegation 1: Mr. Daniel Lee, a custodian, committed Deliberate Inappropriate Restraint against/to a Service Recipient. This allegation has been SUBSTANTIATED as Category 3 Deliberate Inappropriate Restraint pursuant to Social Services Law 493(4)(c). The investigation revealed the subject (Mr. Lee) restrained the Service Recipient with excessive force and/or improper technique.
 - Allegation 2: Mr. Daniel Lee committed Physical Abuse against /to a Service Recipient. This allegation has been SUBSTANTIATED as Category 3 Physical Abuse pursuant to Social Services Law 493(4)(c). The investigation revealed the subject shoved the service recipient.
 - Allegation 3: Mr. Daniel Lee committed Neglect against/to a Service Recipient. This allegation has been SUBSTANTIATED as Category 3 Neglect pursuant to Social Services Law 493(4)(c). The investigation revealed the subject failed to provide supervision to and/or failed to properly de-escalate the service recipient.
 - Category 3 offenses include abuse and neglect that endangers the health, safety, or welfare of a service recipient.

As a result of these, your appointment with BronxCare Health services is terminated with immediate

11/20/2022 01887

Witnesses:

Employee Comments (attach additional pages if necessary):

Corrective Action (objectives and solution to resolve the problem):

Gafaar Salami PCM

Supervisor Name (Print)

Gafaar Salami
Supervisor Signature11/12/21
Date

I acknowledge that I have read and have received a copy of this record of conference.

EMPLOYEE DECIDED NOT TO SIGN
Employee Name (Print) Employee Signature11/12/21
DateWilma Mitchell
Union Delegate (Print) Delegate Signature11/12/2021
Date

If either the employee or union delegate refuse to sign this form indicating their acknowledging receipt thereof, the supervisor/manager must complete the following:

Date
11/12/21

I personally served a copy of this Record of Conference on

Employee's Name

LEE DANIEL

and

Union Delegate's Name

WILMA MITCHELL

He/She (they) received a copy but refused to sign and acknowledge same

Supervisor's/Manager's Name

GAFAAR SALAMI

Date

11/12/21

Witness - Print Name

Laudye Abraham

Witness - Sign

Laudye Abraham

Date

11/12/21

Copy to:

☐ HUMAN RESOURCES☐ DEPARTMENT☐ EMPLOYEE

ACTION TAKEN BY THE PERSONNEL DEPARTMENT:

File (No Further Action at This Time)

Letter to Representative for Union Employee Sent On ____/____/____ to ____

Other _____

Signature

Date

- PRS Timmons insinuated that he never had any difficulty breathing.
- Described push as follows: Two hands out contacting stomach, then grabbed him by the neck, describing both hands near and around his neck. Pushed into cabinet, fell onto the floor.
- Staff present was trying to pull subject off.
- PRS Recalls RN Baily coming into room to assist with security officer.
- PRS Stated that his left arm was hurt due to hitting the floor, staff gave him Tylenol and an ice pack.

09/23/2021

Justice Center investigator Steven Orski conducted a web interview with Registered Nurse (RN), David Baily. RN Baily is employed by BronxCare Health systems, 1276 Fulton Avenue Bronx NY. RN Baily has been a Registered Nurse since 2013, assigned to the 5th Floor, Child Adolescent psychiatric ward.

RN Baily is being interviewed as witness to allegation.

RN Bailey was directed to allegation under current investigation involving PRS Timmons on August 22, 2021.

- RN Baily recalled PRS Timmons observed and heard a commotion, he approached area of concern and observed PRS Timmons being verbally and physically aggressive towards staff. Himself along with other staff verbally redirected PRS Timmons and escorted him back the unit.

- PRS Timmons disclosed that staff (Daniel Lee, subject) placed his hand around his neck and was complaining of pain to his left arm.

- RN Baily did not observe abuse, stating that he was not present from the onset. It was RN Baily understanding that incident started earlier between PRS Timmons and peer PRS Roberts.

- RN Baily was present during follow-up medical assessment to address complaint of pain. (Attachment, Medical Evaluation Nursing note). RN Baily noted left elbow pain, pain scale 3 out of 10. No bruising observed, cold compress and 325 mg Tylenol administered.

3/2021

- RN Baily stated that PRS Timmons stated that he was unsure how he received injury to his elbow. PR Timmons was more concerned and kept repeating that staff had grabbed him by the neck and choked him. RN Baily stated that PRS neck was assessed, no marks were observed. PRS Timmons did not indicate that